



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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Certified Mail: 7003 1680 0000 6167 5400

May 9, 2008

Mr. Keith Winkler, Director
Kings County Environmental Health Services
330 Campus Drive
Hanford, California 93230

Dear Mr. Winkler:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Office of the State Fire Marshal, and the State Water Resources Control Board conducted a program evaluation of the Kings County Environmental Health Services Certified Unified Program Agency (CUPA) on March 26 and 27, 2008. The evaluation was comprised of an in-office program review, and field oversight inspections, by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Kings County Environmental Health Services program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to JoAnn Jaschke every 90 days after the evaluation date. The first deficiency progress report is due on June 25, 2008.

Cal/EPA also noted during this evaluation that the Kings County Environmental Health Services has worked to bring about a number of local program innovations, including: implementing an outstanding public participation program that allows interested parties to provide input into the implementation of the Unified Program and conducting a complete and thorough business plan inspection at a farming operation. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc/Sent via email:

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Linda S. Adams
Secretary for
Environmental
Protection

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

CERTIFIED UNIFIED PROGRAM AGENCY **EVALUATION SUMMARY OF FINDINGS**

CUPA: Kings County Environmental Health Services

Evaluation Date: March 26 and 27, 2008

EVALUATION TEAM

Cal/EPA: JoAnn Jaschke
SWRCB: Marcele Christofferson
OES: Jack Harrah
OSFM: Francis Mateo

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to JoAnn Jaschke at (916) 323-2204.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	The Kings County CUPA's procedure for public information requests does not precisely specify what information is to be withheld from public inspection. The term used in the procedure is "confidential", which is defined in terms of client records, more appropriate to the Health Department programs than to the Environmental Health programs. HSC 25506(a) sections 25511 and 25538 [OES]	The Kings County CUPA corrected this deficiency by updating their public information requests procedure to include procedures for withholding specific chemical locations, procedures for dealing with trade secret information, and other restrictions outlined in the Health and Safety Code, Chapter 6.95.
2	The Kings County CUPA is not meeting the three-year inspection frequency for the HMRRP facilities or the inspection frequency identified in their inspection and enforcement plan for hazardous waste generators, based upon, the last three Annual Inspection Summary Reports (FY 04/05, 05/06, and 06/07) and supplemental information provided by the Kings County CUPA. For FY 06/07, the Kings County CUPA inspected 226 of their 669 HMRRP facilities and 144 of their hazardous waste generators. Currently for FY 07/08, the Kings County CUPA has inspected an	The Kings County CUPA addressed this by hiring a new inspector and developing a plan for maintaining their current inspection frequency. Therefore, Cal/EPA considers this deficiency corrected and will monitor the inspection frequencies via the annual summary report 3 submitted to the state.

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	<p>additional 150 HMRRP facilities and 81 hazardous waste generators.</p> <p>The current rate of inspections will sufficiently meet the statutory requirements within the next two years.</p> <p>HSC 25508(b) CCR, Title 27, section 15200(3) [OES and Cal/EPA]</p>	
3	<p>The Kings County CUPA is not ensuring that business plans are complete and accurate. During the file review of ten facility files, several inventory statements or forms either contained incomplete or inaccurate data elements, and/or check boxes were left blank.</p> <p>Examples of the inaccurate data fields and/or check boxes left blank included: Confidential Information, Map#, Grid#, Trade Secret, EHS, Fire Code Hazard Class, Federal Hazard Category, Amounts, Storage Container Type.</p> <p>HSC section 25505(a)(2) [OSFM]</p>	<p>By May 1, 2009, the Kings County CUPA must ensure that inventory forms are complete and accurate.</p> <p>Additionally, the Kings County CUPA must develop a mechanism to ensure that all inventory forms submitted by March 1, 2009 are complete and accurate.</p>
4	<p>The inspection report does not document or detail the inspection, but, consists of summary of violations/NTC only. There is no record of components reviewed. A comprehensive inspection checklist details the inspection and ensures consistency between inspectors.</p> <p>HSC section 25288 [SWRCB] HSC 25185(c)(2)(A) [Cal/EPA]</p>	<p>The CUPA shall develop a detailed inspection report showing the items reviewed by June 27, 2008.</p> <p>This would become part of the inspection report/record and can be maintained as part of the paper file, or scanned as part of the electronic file. The Summary of Violations (SOV) would be based on the findings detailed in the inspection report and only the SOV could be left at the facility as is the current procedure.</p>

CUPA Representative

Tim Fillmore

(Print Name)

(Signature)

Evaluation Team Leader

JoAnn Jaschke

(Print Name)

(Signature)

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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute

1. **Observation:** In 2005, the Kings County CUPA started implementing a field inspection system using tablet PCs and portable printers to generate inspection reports that document violations cited during an inspection. Violations are automatically entered into Envision as individual violation records. The field inspection system is resulting in improved documentation of violations when compared to handwritten reports/Summary of Violations (SOVs).
2. **Observation:** The Kings County CUPA has established procedures for tracking minor violations as well as an Administrative Enforcement Order (AEO) and Hearing procedures. The following activities are utilized by the Kings County CUPA in order to track and close out minor violations: 1) a certification return to compliance section is automatically included as part of the inspection report, giving the facility 30 days to return to compliance if any violations are cited during the inspection; 2) once compliance has been satisfactorily verified, the inspector closes the violation by entering a "complied on" date in the database; 3) monthly the supervisor generates a report listing facilities with open minor violations that have exceeded the 30 day compliance time frame; 4) inspectors follow up by either calling the facility, issuing the facility a notice of violation(s), or conducting a follow inspection; 5) inspectors will issue a final notice of violation(s) and sets a date for an office hearing to begin the AEO process if all the violations are not corrected in a timely manner. The AEO procedures outline the review and approval responsibilities, electronic tracking procedures, timelines for enforcement, confidentiality of information, and penalty assessment.

Recommendation: Continue implementing the procedures for ensuring business return to compliance for minor violations and initiating formal enforcement against regulated facilities with non-minor violations when necessary and reporting this on the Annual Enforcement Summary Report (Report 4) submitted to Cal/EPA

3. **Observation:** During the oversight inspections, the Kings County CUPA inspectors obtained consent to conduct the inspections and take photographs. However, the consent was not documented in the field inspection system or on the inspection reports/SOVs.

Recommendation: Inspectors should document the name and title or position of the person giving consent to conduct the inspection.

4. **Observation:** Many of the Emergency Response Plan (ERP) components of individual business plans have an obsolete telephone number for spill reporting to OES. The number on the ERP boilerplate form is (916) 262-1621. This number changed in 2002 to (916) 845-8911. The California Highway Patrol office on Glendale in Hanford incorrectly has (916) 845-8199 on their ERP.

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Recommendation: Even though, from the 559 area code, most people wanting to report a hazmat release would use the 800 number (which is correct), the CUPA should ensure that the 916-area-code telephone number in the Emergency Response Plan element of each business plan is correct: (916) 845-8911.

5. **Observation:** The CUPA provides business plan files to the fire agencies within 15 days by sending an email message and attaching portions of the business plan file in PDF file format.

Recommendation: The CUPA should continue to ensure that the files being sent to the fire agencies include the information that they need and are able to use. In addition, the CUPA should follow-up on this procedure periodically to address any issues or to obtain new ideas to improve the way they transmit, receive, and use the information.

6. **Observation:** During the file review, some business plan files contained different kinds of chemical inventory forms.

Recommendation: The CUPA should use the new UPCF (12/2007) form and strongly encourage all regulated facilities to submit information using the new form.

7. **Observation:** The data for Report 6 is not tracked directly for SOC or Red Tag, but is generated after viewing violation tracking reports. Some SOC violations are noted in the general comments section of the inspection report, but, not tied to a specific violation code, and may not be tracked as a violation.

Recommendation: The SWRCB recommends that a determination of SOC compliance and Red Tag (if applicable) be made at the time of inspection and tracked in the database using user defined fields.

SOC items are required to be considered a violation if it is out-of-compliance at the beginning of the inspection, even if it is corrected at the time of the inspection. The SWRCB recommends that SOC items be listed as violations, and then shown as corrected.

8. **Observation:** The CUPA utilizes a list of violations within the Envision inspection program to choose items for the Summary of Violations.

Recommendation: The SWRCB recommends that this list be more comprehensive and include more specific violations.

9. **Observation:** The CUPA application states that the UST permits are automatically renewed each year upon fee payment, but, the permit expiration date is five years after issuance.

Recommendation: The SWRCB recommends that the CUPA application be updated to reflect current practices in UST permit issuance.

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10. Observation: Chief Financial Officer letters are not up-to-date in the files. Mechanisms for showing financial responsibility based on financial records are required to be updated annually based on the most current financial statements.

Recommendation: The CUPA should review these annually to ensure that the mechanism is still valid for the facility, otherwise the facility must provide another means for demonstrating financial responsibility. Although the CFO letters are not expressly required to be submitted to the CUPA annually, but be maintained on site, or at the owner/operators place of business, the CUPA may request that they be submitted at anytime. If not submitted, they should be reviewed during the annual inspection and documented that they are in compliance.

HSC section 25292.2 [SWRCB] 25299.30-25299.34
T23 2711; T23 2808.1; 2809-2809.2

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The Kings County CUPA has an outstanding public participation program that allows interested parties to provide input into the implementation of the Unified Program. In 1997, an Advisory Committee was formed. The committee meets yearly to discuss topics pertinent to the Unified Program. The Kings County CUPA staff sends out meeting announcements, develops the agenda, arranges for outside speakers on a variety of topics, and presents information at the meetings.
2. The Kings County CUPA inspector did a complete and thorough business plan inspection at the Nichols pistachio farming operation. All elements of the business plan program were covered, and the inspector was able to determine that several additional hazardous materials were present on the site that had not previously been included on the inventory. The inspector left a summary of the violations and explained how it could be used as a return to compliance document.
3. The Kings County CUPA's area plan is complete, thorough, up-to-date, and is compliant with the pesticide drift protocols mandated by SB 391, even though these regulations are not yet final. The area plan is posted on the CUPA's Website.
4. The CUPA uses tablet computers in the field for inspections to store, transmit, track, and document information.
5. The CUPA works closely with the fire agencies to address business plan and chemical inventory issues.